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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/647,967 | 08/26/2003 | Lawrence G. Rodriguez | 5801-03/B & D0003.US | 2849 |

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EXAMINER

BOSWELL, CHRISTOPHER J

ART UNIT PAPER NUMBER

3676

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/647,967

Applicant(s)

RODRIGUEZ ET AL.

Examiner

Christopher Boswell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Number 455,334 to Iske et al.

Iske et al. disclose a lockset having a lock mechanism (B) including an actuator (D) having an aperture (D'), an operator (G'), and a turn button (G) mounted to the operator, the turn button having a head portion (f), and a shaft (F) having a leading helical end portion (F'), and means for self-alignment (column 2, lines 74-94) of the shaft with the aperture of the lock mechanism as the shaft is inserted into the aperture, as in claims 1, 4, and 7.

Iske et al. also disclose the leading helical portion having a plurality of leading helical surfaces (figure 3) that taper and twist from a transition line of the shaft toward an end of the shaft, as in claims 2, 5, and 9, as well as the plurality of helical surfaces smoothly transition between adjacent helical surfaces (figure 3), as in claims 3, 6, and 10, wherein the lock mechanism has a rotatable actuator (D) having the aperture, wherein once the leading helical end portion engages the aperture, a rotation of the turn-button effects a corresponding rotation of the rotatable actuator of the lock mechanism (page 1, lines 89-94), as in claim 8.

Response to Arguments

Applicant's arguments filed January 3, 2005 have been fully considered but they are not persuasive. Regarding the argument, on page 5, line 12-21; page 6, lines 13-16; page 7, lines 12-18; and page 8, lines 9-16, that the mechanism of Iske et al. does not disclose the operation of a lock mechanism, the examiner respectfully disagrees. The examiner noticed there is a lack of arguments of how the latch mechanism of Iske et al. differs from the lock mechanism of the current invention other than by name. And after thorough investigation, the current application only defines the lock mechanism as the device to which the turn-button operates, and thus an intended use of what the turn-button actuates. Wherein, Iske et al. discloses substantially the same structure as that recited in the current application, and functions in substantially the same manner, and as a result reads on the current claims. A recitation with respect to the manner in which an apparatus is intended to be employed does not impose any structural limitation upon the claimed apparatus which differentiates it from a prior art reference disclosing the structural limitations of the claim. In re Pearson, 494 F.2d 1399, 181 USPQ 641 (CCPA 1974); In re Yanush, 477 F.2d 958, 177 USPQ 705 (CCPA 1973); In re Finsterwalder, 436 F.2d 1028, 168 USPQ 530 (CCPA 1971); In re Casey, 370 F.2d 576, 152 USPQ 235 (CCPA 1967); In re Otto, 312 F.2d 937, 136 USPQ 458 (CCPA 1963); Ex parte Masham, 2 USPQ2d 1647 (BdPatApp & Inter 1987).

Regarding the argument, on page 6, lines 1-9; page 6, line 21-page 7, line 9; and page 7, line 19-page 8, line 2, that Iske et al. does not disclose a plurality of helical surfaces that taper and twist from a translation line of the shaft toward a tip end of the shaft, the examiner respectfully disagrees. The shaft of Iske et al. has four adjacent surfaces, that smoothly transition

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directly to the adjacent surface, that taper and twist in a translation line, where the helical twist extends toward the tip end of the shaft, as shown in figure 3, wherein the helical peripheral end portions of the shaft engage the aperture to actuate the latch mechanism.

Additionally, regarding the argument, on page 6, lines 10-12, that Iske et al. does not disclose the turn-button is mounted to the operator, the examiner respectfully disagrees. As shown in figure 1, the turn-button G, is directly mounted to the operator G'.

Further regarding the argument, on page 8, line 17-page 9, line 9, that Iske et al. does not provide means for facilitating self-alignment of the shat with the aperture of the lock mechanism as the shaft is inserted into the aperture of the lock mechanism, the examiner respectfully disagrees. The latch spring E aligns the shaft after a tension is applied to the spring, and places the shaft, by way of the aperture to the un-operated position.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to locks and handles with helical portions:

U.S. Patent Number 842,834 to Hurdle, U.S. Patent Number 63,230 to Dickson.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Boswell whose telephone number is (571) 272-7087. The examiner can normally be reached on 8:30 - 5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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CJB CB
March 14, 2005